
(2014) 04 P&H CK 0049

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 1395 of 1988 (O&M)

Gram Panchayat Village Rohno Khurd

APPELLANT

Vs

The Joint Director

RESPONDENT

Date of Decision : 24-04-2014

Acts Referred:

Citation : (2014) 3 RCR(Civil) 1026

Hon'ble Judges : Hemant Gupta, J; Fateh Deep Singh, J

Bench : Division Bench

Advocate : Umesh Kumar Kanwar, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—The challenge in the present writ petition is to an order dated 28.12.1987 passed by the Joint Director, Panchayats exercising the powers of the Commissioner u/s 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short the Act) whereby the finding was returned that Panchayat has no right to eject the respondent herein from the land in question. The Gram Panchayat sought eviction of the respondent herein by filing a petition u/s 7 of the Act in respect of land forming part of Khewat No. 218, Khatauni No. 321, Khasra No. 386 and 387 as per Jamabandi for the year 1982-83. It was alleged that disputed land is a public path/street which area the respondent wants to add to his house. The Panchayat wanted to pave the path/street but was not permitted, therefore Gram Panchayat filed a petition u/s 7 of the Act. Gram Panchayat produced site plan Ex. P-2 to assert that remaining part has been paved and only this area remains to be paved. The stand of the Gram Panchayat is that Khasra No. 386 and 387 are the shamilat deh and a village street through such Khasra numbers was carved out in the year 1971-72. In the said street, some land of respondent No. 3 had to be taken up by the Panchayat. In order to compensate him, part of Khasra No. 386 was sold by the petitioner for consideration of Rs. 500/- vide different resolutions passed in the year 1972. It is alleged that respondent No. 3 has annexed some part of shamilat land comprising in Khasra

No. 380 and 387 though, the kacha path was in existence and that respondent No. 3 is not permitting the said path to be paved.

2. The learned Collector passed an order of eviction of the respondent from the land in question but the said order was set aside by the Commissioner in appeal. The learned Commissioner noticed that from the site plan, there is 5 feet paved street ahead of the disputed land. Such street is in use. The learned Commissioner noticed that there is no shortage or diversion in the disputed area. Even, 5 feet street is reflected in front of the house of the respondent. In view of the said fact, the eviction petition filed by Gram Panchayat was dismissed.

3. We have heard learned counsel for the petitioner and find that there is disputed question of title which cannot be decided in proceedings u/s 7 of the Act. The resolution referred to by the Panchayat of sale of land to respondent does not give any specific Khasra number. It will be question of evidence as to which portion of the land such resolution pertains. Such disputed questions of title are better adjudicated in proceedings u/s 11 of the Act. Consequently, while dismissing the writ petition, Panchayat is given liberty to seek settlement of disputed question of title in proceedings u/s 11 of the Act.